

## EN BANC

[ A.M. No. 08-2-01-0, February 11, 2010 ]

**RE: PETITION FOR RECOGNITION OF THE EXEMPTION OF THE  
GOVERNMENT SERVICE INSURANCE SYSTEM FROM PAYMENT OF  
LEGAL FEES. GOVERNMENT SERVICE INSURANCE SYSTEM,  
PETITIONER.**

### R E S O L U T I O N

**CORONA, J.:**

May the legislature exempt the Government Service Insurance System (GSIS) from legal fees imposed by the Court on government-owned and controlled corporations and local government units? This is the central issue in this administrative matter.

The GSIS seeks exemption from the payment of legal fees imposed on government-owned or controlled corporations under Section 22,<sup>[1]</sup> Rule 141 (Legal Fees) of the Rules of Court. The said provision states:

SEC. 22. *Government exempt.* - The Republic of the Philippines, its agencies and instrumentalities are exempt from paying the legal fees provided in this Rule. Local government corporations and **government-owned or controlled corporations with or without independent charter are not exempt from paying such fees.**

However, all court actions, criminal or civil, instituted at the instance of the provincial, city or municipal treasurer or assessor under Sec. 280 of the Local Government Code of 1991 shall be exempt from the payment of court and sheriff's fees. (emphasis supplied)

The GSIS anchors its petition on Section 39 of its charter, RA<sup>[2]</sup> 8291 (The GSIS Act of 1997):

SEC. 39. *Exemption from Tax, Legal Process and Lien.* - It is hereby declared to be the policy of the State that the actuarial solvency of the funds of the GSIS shall be preserved and maintained at all times and that contribution rates necessary to sustain the benefits under this Act shall be kept as low as possible in order not to burden the members of the GSIS and their employers. **Taxes imposed on the GSIS tend to impair the actuarial solvency of its funds and increase the contribution rate necessary to sustain the benefits of this Act.** Accordingly, notwithstanding any laws to the contrary, **the GSIS, its assets, revenues including accruals thereto, and benefits paid, shall be exempt from all taxes, assessments, fees, charges or**

**duties of all kinds.** These exemptions shall continue unless expressly and specifically revoked and **any assessment against the GSIS as of the approval of this Act are hereby considered paid.** Consequently, **all laws, ordinances, regulations, issuances, opinions or jurisprudence contrary to or in derogation of this provision are hereby deemed repealed, superseded and rendered ineffective and without legal force and effect.**

Moreover, these exemptions shall not be affected by subsequent laws to the contrary unless this section is expressly, specifically and categorically revoked or repealed by law and a provision is enacted to substitute or replace the exemption referred to herein as an essential factor to maintain and protect the solvency of the fund, notwithstanding and independently of the guaranty of the national government to secure such solvency or liability.

The funds and/or the properties referred to herein as well as the benefits, sums or monies corresponding to the benefits under this Act shall be exempt from attachment, garnishment, execution, levy or other processes issued by the courts, quasi-judicial agencies or administrative bodies including Commission on Audit (COA) disallowances and from all financial obligations of the members, including his pecuniary accountability arising from or caused or occasioned by his exercise or performance of his official functions or duties, or incurred relative to or in connection with his position or work except when his monetary liability, contractual or otherwise, is in favour of the GSIS. (emphasis supplied)

The GSIS then avers that courts still assess and collect legal fees in actions and proceedings instituted by the GSIS notwithstanding its exemption from taxes, assessments, fees, charges, or duties of all kinds under Section 39. For this reason, the GSIS urges this Court to recognize its exemption from payment of legal fees.

According to the GSIS, the purpose of its exemption is to preserve and maintain the actuarial solvency of its funds and to keep the contribution rates necessary to sustain the benefits provided by RA 8291 as low as possible. Like the terms "taxes," "assessments," "charges," and "duties," the term "fees" is used in the law in its generic and ordinary sense as any form of government imposition. The word "fees," defined as "charge[s] fixed by law for services of public officers or for the use of a privilege under control of government," is qualified by the phrase "of all kinds."<sup>[3]</sup> Hence, it includes the legal fees prescribed by this Court under Rule 141. Moreover, no distinction should be made based on the kind of fees imposed on the GSIS or the GSIS' ability to pay because the law itself does not distinguish based on those matters.

The GSIS argues that its exemption from the payment of legal fees would not mean that RA 8291 is superior to the Rules of Court. It would merely show "deference" by the Court to the legislature as a co-equal branch.<sup>[4]</sup> This deference will recognize the "compelling and overriding" State interest in the preservation of the actuarial solvency of the GSIS for the benefit of its members.<sup>[5]</sup>

The GSIS further contends that the right of government workers to social security is an aspect of social justice. The right to social security is also guaranteed under Article 22 of the Universal Declaration of Human Rights and Article 9 of the International Covenant on Economic, Social and Cultural Rights. The Court has the power to promulgate rules concerning the protection and enforcement of constitutional rights, including the right to social security, but the GSIS is not compelling the Court to promulgate such rules. The GSIS is merely asking the Court to recognize and allow the exercise of the right of the GSIS "to seek relief from the courts of justice sans payment of legal fees."<sup>[6]</sup>

Required to comment on the GSIS' petition,<sup>[7]</sup> the Office of the Solicitor General (OSG) maintains that the petition should be denied.<sup>[8]</sup> According to the OSG, the issue of the GSIS' exemption from legal fees has been resolved by the issuance by then Court Administrator Presbitero J. Velasco, Jr.<sup>[9]</sup> of OCA<sup>[10]</sup> Circular No. 93-2004:

TO : ALL JUDGES, CLERKS OF COURT AND COURT PERSONNEL OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS

SUBJECT : REMINDER ON THE STRICT OBSERVANCE OF ADMINISTRATIVE CIRCULAR NO. 3-98 (*Re: Payment of Docket and Filing Fees in Extra-Judicial Foreclosure*); SECTION 21, RULE 141 OF THE RULES OF COURT; SECTION 3 OF PRESIDENTIAL DECREE NO. 385; and ADMINISTRATIVE CIRCULAR NO. 07-99 (*Re: Exercise of Utmost Caution, Prudence, and Judiciousness in Issuance of Temporary Restraining Orders and Writs of Preliminary Injunctions*)

Pursuant to the Resolution of the Third Division of the Supreme Court dated 05 April 2004 and to give notice to the concern raised by the [GSIS] to expedite extrajudicial foreclosure cases filed in court, we wish to remind all concerned [of] the pertinent provisions of Administrative Circular No. 3-98, to wit:

2. No written request/petition for extrajudicial foreclosure of mortgages, real or chattel, shall be acted upon by the Clerk of Court, as Ex-Officio Sheriff, without the corresponding filing fee having been paid and the receipt thereof attached to the request/petition as provided for in Sec. 7(c), of Rule 141 of the Rules of Court.

3. No certificate of sale shall be issued in favor of the highest bidder until all fees provided for in the aforementioned sections and paragraph 3 of Section 9 (I) of Rule 141 of the Rules of Court shall have been paid. The sheriff shall attach to

the records of the case a certified copy of the Official Receipt [O.R.] of the payment of the fees and shall note the O.R. number in the duplicate of the Certificate of Sale attached to the records of the case.

Moreover, to settle any queries as to the status of exemption from payment of docket and legal fees of government entities, Section 21, Rule 141 of the Rules of Court explicitly provides:

**SEC. 21. Government exempt.** - The Republic of the Philippines, its agencies and instrumentalities are exempt from paying the legal fees provided in this Rule. Local governments and **government-owned or controlled corporations with or without independent charters** are **not exempt** from paying such fees.<sup>[11]</sup>

x x x            x x x            x x x

The OSG contends that there is nothing in Section 39 of RA 8291 that exempts the GSIS from fees imposed by the Court in connection with judicial proceedings. The exemption of the GSIS from "taxes, assessments, fees, charges or duties of all kinds" is necessarily confined to those that do not involve pleading, practice and procedure. Rule 141 has been promulgated by the Court pursuant to its exclusive rule-making power under Section 5(5), Article VIII of the Constitution. Thus, it may not be amended or repealed by Congress.

On this Court's order,<sup>[12]</sup> the Office of the Chief Attorney (OCAT) submitted a report and recommendation<sup>[13]</sup> on the petition of the GSIS and the comment of the OSG thereon. According to the OCAT, the claim of the GSIS for exemption from the payment of legal fees has no legal basis. Read in its proper and full context, Section 39 intends to preserve the actuarial solvency of GSIS funds by exempting the GSIS from government impositions through taxes. Legal fees imposed under Rule 141 are not taxes.

The OCAT further posits that the GSIS could not have been exempted by Congress from the payment of legal fees. Otherwise, Congress would have encroached on the rule-making power of this Court.

According to the OCAT, this is the second time that the GSIS is seeking exemption from paying legal fees.<sup>[14]</sup> The OCAT also points out that there are other government-owned or controlled corporations and local government units which asked for exemption from paying legal fees citing provisions in their respective charters that are similar to Section 39 of RA 8291.<sup>[15]</sup> Thus, the OCAT recommends that the petition of GSIS be denied and the issue be settled once and for all for the guidance of the concerned parties.

Faced with the differing opinions of the GSIS, the OSG and the OCAT, we now proceed to probe into the heart of this matter: may Congress exempt the GSIS from the payment of legal fees? No.

The GSIS urges the Court to show deference to Congress by recognizing the exemption of the GSIS under Section 39 of RA 8291 from legal fees imposed under Rule 141. Effectively, the GSIS wants this Court to recognize a power of Congress to repeal, amend or modify a rule of procedure promulgated by the Court. However, the Constitution and jurisprudence do not sanction such view.

Rule 141 (on Legal Fees) of the Rules of Court was promulgated by this Court in the exercise of its rule-making powers under Section 5(5), Article VIII of the Constitution:

Sec. 5. The Supreme Court shall have the following powers:

x x x            x x x            x x x

(5) **Promulgate rules concerning** the protection and enforcement of constitutional rights, **pleading, practice, and procedure in all courts**, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.

x x x            x x x            x x x (emphasis supplied)

The power to promulgate rules concerning pleading, practice and procedure in all courts is a traditional power of this Court.<sup>[16]</sup> It necessarily includes the power to address all questions arising from or connected to the implementation of the said rules.

The Rules of Court was promulgated in the exercise of the Court's rule-making power. It is essentially procedural in nature as it does not create, diminish, increase or modify substantive rights. Corollarily, Rule 141 is basically procedural. It does not create or take away a right but simply operates as a means to implement an existing right. In particular, it functions to regulate the procedure of exercising a right of action and enforcing a cause of action.<sup>[17]</sup> In particular, it pertains to the procedural requirement of paying the prescribed legal fees in the filing of a pleading or any application that initiates an action or proceeding.<sup>[18]</sup>

Clearly, therefore, the payment of legal fees under Rule 141 of the Rules of Court is an integral part of the rules promulgated by this Court pursuant to its rule-making power under Section 5(5), Article VIII of the Constitution. In particular, it is part of the rules concerning pleading, practice and procedure in courts. Indeed, payment of legal (or docket) fees is a jurisdictional requirement.<sup>[19]</sup> It is not simply the filing of the complaint or appropriate initiatory pleading but the payment of the prescribed docket fee that vests a trial court with jurisdiction over the subject-matter or nature of the action.<sup>[20]</sup> Appellate docket and other lawful fees are required to be paid